

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION

JENNIFER HARMON, Individually and as)
Surviving Mother of N.J., Decedent, and on)
BEHALF OF THE CLASS OF PERSONS)
DESIGNATED BY R.S.MO. § 537.080,)

Plaintiff,)

v.)

PREFERRED FAMILY HEALTHCARE,)
INCORPORATED,)

Defendant.)

Case No: 2:21-cv-00026-SEP

**MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR APPROVAL OF
WRONGFUL DEATH SETTLEMENT**

COMES NOW Plaintiff, Jennifer Harmon, individually and as surviving mother of N.J. (“Decedent”), as representative of all statutory beneficiaries (“Plaintiff”), by and through her attorneys, and for her Memorandum of Law in Support of their Petition for Approval of Wrongful Death Settlement, and for other Orders under RSMo. § 537.095, state as follows:

Introduction

N.J., Decedent, died on April 15, 2018. Plaintiff in this action is Decedent’s surviving parent. Charles Jaynes, deceased June 14, 2019, is Decedent’s natural father. Plaintiff herein retained counsel to prosecute all claims, including wrongful death, arising out of outpatient counseling services provided to Decedent in March and April 2018, by an employee of Defendant Preferred Family Healthcare, Inc. (PFH), collectively “PFH Defendants.” In accordance therewith, Plaintiff filed the above captioned case, and Plaintiff and PFH Defendants have reached a settlement of all of Plaintiff’s claims and causes of action against PFH Defendants.

Law and Argument

As the surviving parent of Decedent, Plaintiff is a Class I beneficiary pursuant to R.S.Mo. § 537.080. *See* Declaration of Jennifer Harmon, attached as Exhibit 1 to the Parties' Memorandum Supporting Sealing [Doc. #102-1]. Plaintiff is of the opinion that it is in her best interests to waive a trial by jury and, instead, to settle all claims against PFH Defendants, while also acknowledging the Court has also dismissed all claims against the Second Judicial Circuit of the State of Missouri and its agents/employees named therein. *See* Exhibit 1 to the Parties' Memorandum Supporting Sealing as Exhibit 1A to Declaration of Jennifer Harmon [Doc. #102-1]. Plaintiff has negotiated a settlement with PFH Defendants, which they believe to be fair and reasonable, said settlement being a full and complete settlement of all claims stated against PFH Defendants in Plaintiff's Complaint. *See* Exhibit 1 to Parties' Memorandum Supporting Sealing as Exhibit 1A to Declaration of Jennifer Harmon [Doc. #102-1]. The terms of the settlement are more fully reflected in the Settlement Agreement and Release, attached to the Parties' Memorandum Supporting Sealing as Exhibit 1A to Declaration of Jennifer Harmon [Doc. #102-1].

Pursuant to §537.095, Plaintiff hereby seeks the Court's approval of this settlement. *See* Exhibit 1 to the Parties' Memorandum Supporting Sealing [Doc. #102-1]. Plaintiff has an agreement with her counsel to pay, based upon the gross recovery herein, attorney's fees and expenses incurred in the prosecution of this action. A copy of these representation-related materials are attached to the Parties' Memorandum Supporting Sealing as Exhibits 1C1, 1C2, and 1C3 to Declaration of Jennifer Harmon (contained within Exhibit 1 thereto) [Doc. #102-1]. Said fees and costs are set forth in the Proposed Distribution of Settlement Proceeds, attached to the Parties' Memorandum Supporting Sealing as Exhibit 1B to Declaration of Jennifer Harmon. [Doc. #102-1]. The proposed distribution of the settlement proceeds is not in dispute.

The amount and terms of the settlement are fair and reasonable, and the distribution of the settlement proceeds is equitable, proper and fair and in the best interest of Plaintiff as a statutory Class I beneficiary. *See* Exhibit 1.

WHEREFORE, pursuant to §537.095, Plaintiff hereby requests that this Court:

1. Find that Plaintiff is authorized to settle this lawsuit with Defendants and to enter into and sign all necessary Releases and Stipulations.
2. Approve the settlement, as stated in the Settlement Agreement and Release.
3. Apportion the settlement proceeds to those entitled to share.
4. Determine the fair and equitable attorneys' fees and expenses to be paid from the gross amount of settlement.
5. Order that Declaration of Plaintiff (Exhibit 1 to Memorandum Supporting Sealing), Settlement Agreement and Release (Exhibit 1A to Declaration) and the Proposed Distribution of Settlement Proceeds (Exhibit 1B to Declaration) and the contingency fee agreement and related documents between Plaintiffs and her counsel (Exhibits 1C1, 1C2, and 1C3 to Declaration) [Doc. #102-1] be and remain sealed.
6. Order that the terms and amounts of this settlement shall be and shall remain confidential, and not be shared with any other person, firm or entity outside of the parties and their respective counsel, as described in the Release.
7. Order that Plaintiff shall satisfy any and all outstanding Medicare, Medicaid, attorney and/or other liens and shall defend, indemnify and hold harmless the Defendant herein and its insurers and counsel in the event any such lien(s) is/are asserted against them.

By: /s/ Brandon Corl
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ATTORNEYS FOR PLAINTIFF

Certificate of Service

I hereby certify that on the 1st day of June, 2023, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

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